

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF OREGON

PHILIN CORPORATION, a California corporation,

Plaintiff,

V.

WESTHOOD, INC., an Oregon corporation,
formerly known as D.S. Parklane Development,
Inc.,

Defendant.

Civil No. 04-1228-HU

ORDER

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JONES, Judge:

Magistrate Judge Hubel filed findings and Recommendation (# 113) on September 12, 2006, in the above entitled case. The matter is now before me pursuant to 28 U.S.C.

§ 636(b)(1)(B) and Fed. R. Civ. P. 72(b).¹ When either party objects to any portion of a magistrate judge's Findings and Recommendation, the district court must make a de novo determination of that portion of the magistrate judge's report. See 28 U.S.C. § 636(b)(1); McDonnell Douglas Corp. v. Commodore Business Machines, Inc., 656 F.2d 1309, 1313 (9th Cir. 1981), cert. denied, 455 U.S. 920 (1982).

Defendant has timely filed objections. I have, therefore, given de novo review of Magistrate Judge Hubel's rulings.

¹ Although neither party has addressed this court's standard of review of a Magistrate Judge's findings and recommendations on a Rule 37 motion for sanctions, courts have construed Rule 37 motions for sanctions, such as the one at issue here, as dispositive motions subject to 28 U.S.C. § 636(b)(1)(B) and Fed. R. Civ. P. 72(b). See Massey v. City of Ferndale, 7 F.3d 506, 509-10 (6th Cir. 1993); see also the discussion of dispositive v. nondispositive motions in Vogel v. U.S. Office Products Co., 258 F.3d 509, 514-15 (6th Cir. 2001).

I find no error. Accordingly, I ADOPT Magistrate Judge Hubel's Findings and Recommendation (# 113) dated September 12, 2006, in its entirety. Defendant's motion for sanctions (# 69) is granted in part and denied in part as follows. Defendant's motion to dismiss is DENIED. Defendant's motion for attorney fees is GRANTED in the sum of \$1,198.50.

IT IS SO ORDERED.

DATED this 4th day of December, 2006.

/s/ Robert E. Jones

ROBERT E. JONES

United States District Judge